

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

STEPHEN KERSHNAR,

Plaintiff,

v.

STEPHEN H. KOLISON, JR, in his
individual capacity and his official
capacity as the President of the State
University of New York at Fredonia, *et*
al.,

Defendants.

Case No.: 1:23-cv-00525

**DECLARATION OF ADAM
STEINBAUGH IN SUPPORT OF
MOTION FOR PRELIMINARY
INJUNCTION**

Under 28 U.S.C. § 1746, I, Adam Steinbaugh, declare as follows:

1. I am over the age of 18 and have personal knowledge of the facts in this declaration.

2. I am an attorney with the Foundation for Individual Rights and Expression, counsel for Plaintiff in this action. I am admitted to the bars of the State of California and the Commonwealth of Pennsylvania. I am filing a petition seeking leave to appear *pro hac vice* in this action as co-counsel for Plaintiff.

3. The sole purpose of this declaration is to offer documentary evidence in support of Plaintiff's motion for a preliminary injunction.

SUNY Policies

4. A true and correct copy of the current State University of New York Policies of the Board of Trustees is attached as **Exhibit 1**.

5. A true and correct copy of the Agreement between the State of New York and United University Professions is attached as **Exhibit 2**.

SUNY Fredonia's statements about Kershnar's work

6. A true and correct copy of Stephen Kershnar's biography as published on SUNY Fredonia's website is attached as **Exhibit 3**. This biography is available at <https://www.fredonia.edu/academics/colleges-schools/college-liberal-arts-sciences/philosophy/faculty/Stephen-Kershnar> and archived at <https://perma.cc/CL8Y-EP2B>.

7. A true and correct copy of a June 3, 2011, press release issued by SUNY Fredonia is attached as **Exhibit 4**. The press release is available at <https://www.fredonia.edu/news/suny-fredonia-trio-wins-prestigious-chancellors-awards-excellence> and archived at <https://perma.cc/45M2-YEVM>.

8. A true and correct copy of a June 12, 2014, press release issued by SUNY Fredonia is attached as **Exhibit 5**. The press release is available at <https://www.fredonia.edu/news/stephen-kershnar-named-suny-distinguished-teaching-professor> and archived at <https://perma.cc/HLY9-A68C>.

The 'Unregistered' and 'Brain in a Vat' podcasts

9. A true and correct copy of the Apple Podcasts page for *Unregistered with Thaddeus Russell* is attached as **Exhibit 6** and archived at <https://perma.cc/K3J8-L89M>.

10. A true and correct copy of a transcript of Kershnar's December 5, 2020, appearance on *Unregistered* is attached as **Exhibit 7**.

11. A true and correct copy of an article entitled “Brain in a VAT Podcast: Q&A” published by THE PHILOSOPHERS’ MAGAZINE is attached as **Exhibit 8** and archived at <https://perma.cc/3MNJ-2GDU>.

12. A true and correct copy of an article entitled “Stephen Kershnar and the Importance of Unaskable Questions” by *Brain in a Vat* hosts Mark Oppenheimer and Jason Werbeloff, published on March 26, 2022, by QUILLETTE, is attached as **Exhibit 9** and archived at <https://perma.cc/DEZ7-V486>.

13. A true and correct copy of a transcript of Kershnar’s January 30, 2022, appearance on *Brain in a Vat* is attached as **Exhibit 10**.

February 1, 2022 Tweets about Kershnar

14. A true and correct copy of a screenshot of the February 1, 2022, Twitter thread by user @MythinformedMKE is attached as **Exhibit 11**.

15. A true and correct copy of a screenshot of the February 1, 2022, Twitter thread by user @LibsofTikTok is attached as **Exhibit 12**.

16. A true and correct copy of President Kolison’s February 1, 2022, statement is attached as **Exhibit 13**. President Kolison’s tweeted statement is available at <https://twitter.com/FredoniaU/status/1488726120338006017>.

17. A true and correct copy of President Kolison’s February 3, 2022, statement is attached as **Exhibit 14**. President Kolison’s tweeted statement is available at <https://twitter.com/FredoniaU/status/1489339982661701633>.

SUNY Fredonia’s response to a FOIL request

18. On February 3, 2022, I issued a request under New York’s Freedom of Information Law (FOIL) to SUNY Fredonia.

19. On March 7, 2022, SUNY Fredonia produced records in response to my February 3, 2022, FOIL request.

20. True and correct copies of the following documents produced in response to my FOIL request are attached:

- a) An email from Dispatcher Alexandra Best-Kelm to SUNY Fredonia Chief of Police Brent S. Isaacson sent on February 1, 2022, at 9:56 p.m., attached as **Exhibit 15**.
- b) An email from SUNY Fredonia Chief of Police Brent S. Isaacson sent on February 2, 2022, at 10:08 p.m., attached as **Exhibit 16**;
- c) An undated email sent by Isaacson, attached as **Exhibit 17**;
- d) An email from SUNY Fredonia Interim Chief Information Officer Benjamin Hartung sent on February 3, 2022, attached as **Exhibit 18**; and
- e) An undated email sent by Isaacson, attached as **Exhibit 19**.

Admonitory letters from faculty and academic freedom groups

21. A true and correct copy of a February 3, 2022, letter I sent on behalf of FIRE to President Kolison is attached as **Exhibit 20**.

22. A true and correct copy of a letter dated March 3, 2022, on behalf of SUNY Fredonia is attached as **Exhibit 21**.

23. A true and correct copy of a February 3, 2022, letter from Prof. Keith Whittington, Chair, Academic Committee, Academic Freedom Alliance to President Kolison is attached as **Exhibit 22**.

24. A true and correct copy of a February 4, 2022, letter signed by 158 faculty members and sent by FIRE to President Kolison is attached as **Exhibit 23**.

FOIL responses from the New York State Police, Chautauqua County Sheriff, and Fredonia Village Police

25. In January and April 2023, I issued FOIL requests to three law enforcement agencies seeking (a) any reports concerning Kershner and (b) any communications the agency had with SUNY Fredonia after January 30, 2022.

26. A true and correct copy of my January 8, 2023, FOIL request to the New York State Police is attached as **Exhibit 24**.

27. A true and correct copy of the January 9, 2023, FOIL response I received from the New York State Police is attached as **Exhibit 25**.

28. A true and correct copy of my January 8, 2023, FOIL request to the Fredonia Village Police Department, together with the January 9, 2023, response I received from the Fredonia Village Police, is attached as **Exhibit 26**.

29. A true and correct copy of my April 14, 2023, FOIL request to the Chautauqua County Sheriff Records Division is attached as **Exhibit 27**.

30. A true and correct copy of an April 27, 2023, email I received from Samantha Gleason of the Chautauqua County Sheriff's Office Records Department is attached as **Exhibit 28**.

Miscellaneous records

31. A true and correct copy of the SUNY Fredonia Police Blotter's list of incidents after November 7, 2021, as it appeared on June 6, 2023, is attached as **Exhibit 29**. The SUNY Fredonia Police Blotter is *available at* <https://www.fredonia.edu/about/offices/university-police/blotter> and *archived at* <https://perma.cc/UHJ5-TLK4>.

32. A true and correct copy of a February 7, 2022, letter from six members of the New York State Assembly to SUNY Chancellor Deborah Stanley is attached as **Exhibit 30**. This letter is *archived* at https://web.archive.org/web/20220326035618/https://www.assembly.state.ny.us/write/upload/member_files/116/pdfs/20220214_0100835.pdf.

33. A true and correct copy of the Google Trends search results, as of May 12, 2023, for the terms “kershnar” and “SUNY Fredonia” and showing their “interest over time” between October 1, 2021, and May 7, 2023, is attached as **Exhibit 31**.

34. A true and correct copy of an article from the September 7, 2022, edition of *The Leader* is attached as **Exhibit 32**. This edition of *The Leader* is also made available on the website of *The Leader* at <https://fredonialeader.org/wp-content/uploads/2022/09/921FINALLeaderMagazine-Issue2-Fall22.pdf>.

35. A true and correct copy of the “Display Course Search Results” list of available Philosophy classes for the Fall 2023 semester, as it appeared on June 12, 2023, is attached as **Exhibit 33**.

I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge.

Dated: June 12, 2023

/s/ Adam Steinbaugh
Adam Steinbaugh